



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

July 24, 2019

BY EMAIL AND ECF

The Honorable Paul G. Gardephe
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: United States v. Omar Amanat and Irfan Amanat,
S8 15 Cr. 536 (PGG)

Dear Judge Gardephe:

The Government respectfully submits this letter in response to the Court's request for the Government to provide its position on the requests by the above-captioned defendants to adjourn the *Fatico* hearing currently scheduled for Thursday, July 25, relating to the Government's allegation that the Amanats engaged in obstruction of justice. The Government is prepared to proceed with the *Fatico*, as it has been for months. However, for the reasons set forth below, the Government takes no position on a requested adjournment of the hearing date.

Following the guilty verdict at the trial of defendant Irfan Amanat ("Irfan") in the Fall of 2018, the Court scheduled a hearing for April 5, 2019 for the Government to present evidence relevant to the Government's allegation that the Amanats obstructed justice by seeking to obtain fabricated bank records intended to support a fake affidavit for the Court suggesting that certain cooperating witnesses who testified at both defendants' trials had been paid for their testimony (the "Obstruction"). In March 2019, after the Court determined that trial counsel for Omar Amanat ("Omar") had a conflict that prevented counsel from representing Omar at a *Fatico* on the Obstruction conduct, newly-appointed counsel for Omar, Gráinne O'Neill, Esq., informed the Government that she would be unable to conduct the *Fatico* hearing in April 2019 because of the time she needed to prepare and because she had a trial in April. The Government filed a letter on consent of all parties seeking a hearing date in the second half of May. The Court scheduled the hearing for July 25, to be followed by sentencing for Irfan on August 20.

Beginning a number of weeks ago and continuing as recently as this past Friday, July 19, counsel for Irfan advised the Government on numerous occasions that Irfan did not intend to contest the Obstruction-related enhancement and therefore a *Fatico* hearing would be unnecessary as to him. In communications between the Government and Omar's counsel, counsel expressed a desire to engage in further dialogue about potential resolution of the issue if Irfan decided not the

contest the Obstruction. In the course of these discussions about how Omar would proceed if Irfan did not contest the Obstruction conduct, the Government conveyed that it would not object to a request to adjourn the *Fatico* hearing with respect to Omar to allow further discussions to take place, and because Omar does not currently have a sentencing date.

On the afternoon of July 19, counsel for Irfan advised the Government that Irfan was considering objecting to the Obstruction, and on Monday July 22, counsel for Irfan advised that Irfan in fact changed his mind and wished to contest the Obstruction. Counsel for Irfan further indicated that communication with their client had broken down to the point that they would need to seek leave to withdraw as counsel.¹ The Government understands that the Court is scheduled to speak with Irfan and his current counsel at 2 p.m. this afternoon and that Irfan is in the process of privately retaining new counsel.

The Government has been prepared to go forward with his hearing for a number of months. However, in light of the above recent developments, the Government understands that it may be impracticable and undesirable to hold the hearing tomorrow. Accordingly, the Government conveyed to counsel for both Irfan and Omar that it took no position on their requests to adjourn the hearing, and continues to maintain that position.

Respectfully submitted,

GEOFFREY S. BERMAN
United States Attorney

By: /s/
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¹ Present counsel was appointed pursuant to the CJA on or about March 12, 2018, after prior counsel's motion to withdraw was granted.